

## 37 Am. Jur. 2d Fraud and Deceit § 116

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### Fraud and Deceit

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#### IV. False Representations

##### F. Intent to Deceive, or to Induce Reliance; Knowledge of Falsity

###### 1. Necessity of Intent

## § 116. Views dispensing with or modifying requirement of intent to deceive; statutes

[Topic Summary](#) | [Correlation Table](#) | [References](#)

### West's Key Number Digest

West's Key Number Digest, Fraud  4

In some jurisdictions the rule is broadly stated that intent to deceive is not a necessary element of an action at law for fraud to recover damages.<sup>1</sup> In one state, any representations that are false in fact and actually deceive the other, and are relied on by a person to that person's damage, are actionable, irrespective of whether the person making them acted in good faith in making them where the loss of the party deceived inures to the benefit of the other.<sup>2</sup> Where an intent to deceive is not an element of fraud, the intent or good faith of a representor is not in issue and is not controlling.<sup>3</sup>

### Observation:

The crucial difference between fraud and gross mistakes amounting to fraud is the necessity of an intent to deceive.<sup>4</sup>

One may be guilty of violating a statute condemning certain misrepresentations without an intent to defraud.<sup>5</sup> Likewise, a statute may dispense with the necessity of an intent to deceive if an innocent misrepresentation is acted upon by the party to whom it is made<sup>6</sup> or require a different kind of intent.<sup>7</sup>

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Footnotes

1 Damon v. Sun Co., Inc., 87 F.3d 1467 (1st Cir. 1996) (applying Massachusetts law); Foiles v. Midwest Street Rod Ass'n of Omaha, Inc., 254 Neb. 552, 578 N.W.2d 418 (1998).

2 Rosenberg v. Cyrowski, 227 Mich. 508, 198 N.W. 905 (1924).

3 McDaniel v. Hodges, 176 Va. 519, 11 S.E.2d 623 (1940).

4 BMY Combat Systems Div. of Harsco Corp. v. U.S., 38 Fed. Cl. 109 (1997).

5 People v. Richter's Jewelers, Inc., 291 N.Y. 161, 51 N.E.2d 690, 150 A.L.R. 560 (1943).

6 Gulf Electric Co. v. Fried, 218 Ala. 684, 119 So. 685 (1928).

7 Gagne v. Bertran, 43 Cal. 2d 481, 275 P.2d 15 (1954).

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